

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

LILI SUN,

Plaintiff,

vs.

ASI LLOYDS,

Defendant.

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CIVIL ACTION NO. 4:15-CV-595

DEFENDANT ASI LLOYDS' NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant ASI Lloyds, hereby removes the action styled and numbered *Lili Sun v. ASI Lloyds*, Cause No. 15-06438-16, pending in the 16th Judicial District Court in Denton County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division. For the reasons set forth below, removal of the state court action is proper under 28 U.S.C. §§ 1332, 1441, and 1446.

I. THE STATE COURT ACTION

1. On July 30, 2015, Plaintiff Lili Sun ("Sun") filed her Original Petition in the 16th Judicial District Court in Denton County, Texas – Cause No. 15-06438-16.

2. Sun's Original Petition alleges causes of action against ASI for Breach of Contract, Prompt Payment of Claims Statute (Texas Insurance Code Chapter 542), and Bad Faith/DTPA (Texas Insurance Code Chapter 541 and Texas Business and Commerce Code Chapter 17).

II. ASI'S NOTICE OF REMOVAL IS TIMELY

3. ASI was served with the petition and citation on August 6, 2015. Accordingly, ASI files this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

III. VENUE IS PROPER

4. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the action has been pending is located in this district.

IV. BASIS FOR REMOVAL JURISDICTION

5. Removal of this action is proper under 28 U.S.C. § 1441 because it is a civil action brought in a state court and the federal courts have original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332. Specifically, removal is proper because there is now, and was at the time this action was filed, complete diversity of citizenship between Sun and ASI and the amount in controversy exceeds \$75,000 excluding interest, costs, and attorney's fees.

6. Sun is a Texas resident who resides in Denton County, Texas.

7. ASI was at the time this lawsuit was filed, and at the date of this Notice remains, an association of underwriters. The individual underwriters are as follows: Tanya J. Fjare, Trevor C. Hillier, Kevin R. Milkey, Gregory E. Stewart, John F. Auer, Jr., Robert K. Munns, Jr., Edwin L. Cortez, Mary F. Bacon, Antonio Scognamiglio, and Philip L. Brubaker. Each of these underwriters is a citizen of the State of Florida. The United States Supreme Court has held that an unincorporated association's citizenship is determined by the citizenship of each of its partners.¹ Therefore, ASI is not a citizen of the State of Texas.

8. Accordingly, there is now, and was at the time this action was filed, complete diversity of citizenship between Sun and ASI.

V. AMOUNT IN CONTROVERSY

9. If it is facially apparent that Sun's claims exceed the jurisdictional amount, ASI's

¹ See *Smith v. Allstate Texas Lloyds*, No. 4:12cv486, 2012 WL 7827609 at *2 (E.D. Tex. Dec. 21, 2012) (recognizing that this has been a consistent view of the United States Supreme Court for over 100 years); *Carden v. Arkoma Assocs.*, 494 U.S. 185, 195-96 (1990).

burden is satisfied.²

10. In her Original Petition, Sun seeks monetary relief over \$100,000.³

11. Thus, it is facially apparent that Sun's claims exceed the jurisdictional minimum of \$75,000.01.

12. Because there is complete diversity among the parties and the amount in controversy requirement is satisfied, this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a). Removal is therefore proper.

VI. COMPLIANCE WITH LOCAL RULE CV-81

13. Pursuant to Rule CV-81 of the Local Rules of the Eastern District of Texas, ASI is filing this Notice of Removal, accompanied by the following exhibits:

- a. A list of all parties in the case, their party type, and current status of the removed case, attached hereto as **Exhibit A**
- b. A civil cover sheet, attached hereto as **Exhibit B**
- c. A copy of the state court docket sheet, attached hereto as **Exhibit C**
- d. A copy of Sun's Original Petition, attached hereto as **Exhibit D**
- e. A copy of ASI's Original Answer, attached hereto as **Exhibit E**
- f. All executed process and orders served on ASI, attached hereto as **Exhibit F**
- g. A list of attorneys involved in the action, attached hereto as **Exhibit G**
- h. A record of which parties have requested trial by jury, attached hereto as **Exhibit H**
- i. The name and address of the court from which the case is being removed, attached hereto as **Exhibit I**

² *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1999).

³ See **Exhibit D**, Sun's Original Petition at §III, ¶4.

VII. CONCLUSION

14. ASI will promptly file a copy of this Notice of Removal with the clerk of the state court where the action is pending.

15. Therefore, ASI hereby provides notice that this action is duly removed.

Respectfully submitted,

By: /s/ Todd M. Tippet

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ATTORNEYS FOR DEFENDANT

ASI LLOYDS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Notice of Removal has been served on all the following counsel of record by electronic filing pursuant to the FEDERAL RULES OF CIVIL PROCEDURE on this 1st day of September, 2015:

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/s/ Todd M. Tippet

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